

Senate Bill No. 27

CHAPTER 95

An act to amend Section 16302.1 of, to add Sections 13940, 13941, 13942, 13943, 13943.1, and 13943.2 to, and to repeal Sections 16301.6, 16301.7, and 16301.8 of, the Government Code, relating to state finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 13, 1999. Filed with
Secretary of State July 13, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 27, Burton. State finances.

(1) Existing law authorizes the Controller to discharge any state agency or employee from accountability for the collection of taxes, licenses, fees, or money if the debt is uncollectible or the amount of the debt does not justify the cost of its collection. Existing law also authorizes a state agency not to collect these moneys if the amount involved is \$250 or less and the amount owed is uncollectible or does not justify the cost of collection. The Controller is authorized to adopt rules and regulations to permit state agencies to retain overpayments made to those agencies where a demand for refund is not made within 6 months after the refund becomes due.

This bill would grant this authority to the State Board of Control instead of the Controller.

(2) Under existing law, as set forth in the annual Budget Act, funds are appropriated for the support of various state government entities.

This bill would require, for each of the fiscal years 1999–2000 to 2008–09, inclusive, unless the loan is paid off earlier, that the Controller transfer to the General Fund, from a specified fund, an amount equal to 10% of an amount that was loaned in 1998 to fund certain contributions to the Public Employees Retirement System.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 13940 is added to the Government Code, to read:

13940. Any state agency or employee required to collect any state taxes, licenses, fees, or money owing to the state for any reason that is due and payable may be discharged by the board from accountability for the collection of the taxes, licenses, fees, or money

if the debt is uncollectible or the amount of the debt does not justify the cost of its collection.

SEC. 2. Section 13941 is added to the Government Code, to read:

13941. The application for a discharge under this chapter shall be filed with the Controller and include the following:

(a) A statement of the nature and amount of the tax, license, fee, or other money due.

(b) The names of the persons liable.

(c) The estimated cost of collection.

(d) All other facts warranting the discharge, unless the Controller determines that the circumstances do not warrant the furnishing of detailed information.

SEC. 3. Section 13942 is added to the Government Code, to read:

13942. The Controller shall audit the applications and recommend to the board an order discharging the applicant from further accountability for collection and authorizing the applicant to close its book on that item, if the Controller determines the following:

(a) The matters contained in the application are correct.

(b) No credit exists against which the debt can be offset.

(c) Collection is improbable for any reason.

(d) The cost of recovery does not justify the collection.

(e) For items that exceed the monetary jurisdiction of the small claims court, the Attorney General has advised, in writing, that collection is not justified by the cost or is improbable for any reason.

SEC. 4. Section 13943 is added to the Government Code, to read:

13943. The board may delegate to the Controller, under terms and conditions that are acceptable to the board, the authority to discharge from accountability a state agency for accounts that do not exceed the amount specified in subdivision (e) of Section 13942 and thereby authorize the closing of the agency's books in regard to that item.

SEC. 5. Section 13943.1 is added to the Government Code, to read:

13943.1. A discharge granted pursuant to this chapter to a state agency or employee does not release any person from the payment of any tax, license, fee, or other money that is due and owing to the state.

SEC. 6. Section 13943.2 is added to the Government Code, to read:

13943.2. Upon authorization of the board, a state agency is not required to collect taxes, licenses, fees, or money owing to the state for any reason if the amount to be collected is two hundred fifty dollars (\$250) or less. A state agency that seeks this authorization shall file an application with the board accompanied by a statement of circumstances. Nothing contained in this section shall be construed as releasing any person from the payment of any money due the state.

SEC. 7. Section 16301.6 of the Government Code is repealed.

SEC. 8. Section 16301.7 of the Government Code is repealed.

SEC. 9. Section 16301.8 of the Government Code is repealed.

SEC. 10. Section 16302.1 of the Government Code is amended to read:

16302.1. Whenever any person pays to any state agency pursuant to law an amount covering taxes, penalties, interest, license or other fees, or any other payment, and it is subsequently determined by the state agency responsible for the collection thereof that this amount includes an overpayment of ten dollars (\$10) or less of the amount due the state pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of the overpayment may be disposed of in either of the following ways:

(a) The state agency responsible for the collection to which the overpayment relates may apply the amount of the overpayment as a payment by the person on any other taxes, penalties, interest, license or other fees, or any other amount due the state from that person if the state agency is responsible by law for the collection to which the overpayment is to be applied as a payment.

(b) Upon written request of the state agency responsible for the collection to which the overpayment relates, the amount of the overpayment shall, on order of the Controller, be deposited as revenue in the fund in the State Treasury into which the collection, exclusive of overpayments, is required by law to be deposited.

The State Board of Control may adopt rules and regulations to permit state agencies to retain these overpayments where a demand for refund permitted by law is not made within six months after the refund becomes due, and the retained overpayments shall belong to the state.

Except as provided in the foregoing paragraph, this section shall not affect the right of any person making overpayment of any amount to the state to make a claim for refund of the overpayment, nor the authority of any state agency or official to make payment of any amount so claimed, if otherwise authorized by law.

SEC. 11. For each of the fiscal years 1999–2000 to 2008–09, inclusive, the Controller shall transfer to the General Fund, from Fund No. 0348 listed in Schedule (d) of Item 0110-001-0001 of Section 2.00 of the annual Budget Act, an amount equal to 10 percent of the total amount that, pursuant to a Department of Finance loan repayment letter of March 19, 1999, was loaned in augmentation of that item for the purpose of funding contributions pursuant to Section 20822 or former Section 20751 of the Government Code. Notwithstanding any other provision of law, the transfers made pursuant to this section are hereby deemed to fully satisfy all obligations to make repayment of that loan. The loan may be fully repaid and satisfied by an accelerated payment schedule, as agreed to by the parties, at any time prior to the 2008–09 fiscal year, after

which the Controller shall not make any further transfers pursuant to this section.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the efficient operation of state financial affairs and to enable the Public Employees' Retirement System to operate on an actuarially sound basis, it is necessary that this act take effect immediately.

